

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

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ALTERRA AMERICA INSURANCE CO.,

Plaintiff,

v.

NATIONAL FOOTBALL LEAGUE, et al.,

Defendants.

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Index No. 652813/2012 E

Hon. Andrea Masley

**STIPULATION FOR  
APPOINTMENT OF REFEREE  
TO SUPERVISE DISCLOSURE  
PURSUANT TO CPLR 3104**

DISCOVER PROPERTY & CASUALTY  
COMPANY, et al.,

Plaintiffs,

v.

NATIONAL FOOTBALL LEAGUE, et al.,

Defendants.

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Index No. 652933/2012 E

Hon. Andrea Masley

IT IS HEREBY STIPULATED AND AGREED, by and among the undersigned counsel as follows:

WHEREAS, the parties in these actions served requests for disclosure, including demands for discovery and inspection as well as interrogatories, and corresponding responses to these requests, all pursuant to CPLR Article 31; and

WHEREAS, after service of the requests for disclosure and the responses thereto, certain disputes arose concerning the parties' disclosure obligations; and

WHEREAS, by joint letter dated February 2, 2018, the parties informed the Court of certain of these disclosure disputes and that, although they had met and conferred in

good faith on their disputes, it appeared that the parties had reached an impasse on some issues; and

WHEREAS, at a February 6, 2018 conference, the Court presented the parties with several disclosure dispute resolution options, including the retention of a private special referee to assist in resolving the parties' current disclosure disputes, as well as any other disclosure disputes that may arise in the future; and

WHEREAS, the parties discussed the disclosure dispute resolution options presented at the February 6, 2018 conference and, by joint letter dated February 22, 2018, informed the Court of their agreement that the preferred course is the appointment of a private special referee to assist in resolving the parties' disclosure disputes; and

WHEREAS, pursuant to CPLR 3104(b), the Court may permit all of the parties in an action to stipulate that a named attorney may act as referee to supervise all disclosure; and

WHEREAS, the parties have discussed and agree that Hon. Michael H. Dolinger (Ret.) of JAMS should be appointed, pursuant to CPLR 3104, as the referee to supervise all disclosure in these actions, including but not limited to the disclosure disputes outlined in the parties' joint letter dated February 2, 2018; and

WHEREAS, the parties further agree that any application for review of an order of the referee made under CPLR 3104 shall be made pursuant to CPLR 3104(d); provided, however, that an application for review shall be deemed timely for all purposes under CPLR 3104(d) if the motion is made within fourteen (14) days after the order to be reviewed is made in writing and issued via e-mail to all parties by the Special Referee; and

WHEREAS, the parties further agree generally to split the fees and costs of the referee for his services in these actions equally between the National Football League and NFL Properties LLC (the “NFL Policyholders”), on the one hand, and the remaining parties (“Insurer Parties”), on the other hand, as more particularly described below; and

WHEREFORE, it is hereby stipulated and agreed by and among the undersigned counsel that:

1. Hon. Michael H. Dolinger (Ret.) of JAMS may act as a referee pursuant to CPLR 3104 to supervise all disclosure in these actions, including but not limited to the disclosure disputes outlined in the parties’ joint letter dated February 2, 2018, with all of the powers of the Court specified under CPLR 3104(c) available to him.

2. Any application for review of an order of the referee made under CPLR 3104 shall be made pursuant to CPLR 3104(d); provided, however, that an application for review shall be deemed timely for all purposes under CPLR 3104(d) if the motion is made within fourteen (14) days after the order to be reviewed is made in writing and issued via e-mail to all parties by the Special Referee.

3. The referee’s fees and costs for his service in these actions will be paid by the parties, with such fees and costs split equally between the NFL Policyholders, on the one hand, and the Insurer Parties, on the other hand. The Insurer Parties’ share will be allocated on a per capita basis among 11 law firms representing the insurer groups in this action, except to the extent a particular dispute is brought by or against fewer than all insurer groups, in which event it will be allocated on a per capita basis among the involved insurer groups. Notwithstanding anything to the contrary above, the NFL Policyholders shall have no responsibility for the referee’s fees and costs for his service in connection with any dispute not involving the NFL Policyholders.

4. Special Referee Dolinger shall be provided a copy of the Stipulation and Order for the Production and Exchange of Confidential Information entered by this Court on May 22, 2013 and shall be deemed a permissible recipient of Confidential Information and Attorneys' Eyes Only Information pursuant to Paragraphs 6 and 7 thereunder.

5. The parties consent to the entry of the Proposed Order attached as Exhibit A to this Stipulation, which embodies the foregoing stipulations and agreements.

This stipulation may be executed in counterparts, each of which shall be deemed an original but all of which constitute one and the same agreement. Facsimile signatures, and those executed with the permission of counsel, shall have the same force and effect as originals.

SO STIPULATED:

New York, New York  
April 27, 2018

COVINGTON & BURLING LLP

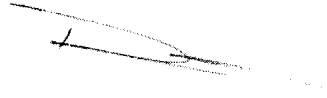
By   
John E. Hall

The New York Times Building  
620 Eighth Avenue  
New York, New York 10018  
(212) 841-1000

Mitchell F. Dolin  
Michael Lechliter  
COVINGTON & BURLING LLP  
One CityCenter, 850 Tenth Street, NW  
Washington, DC 20001-4956

*Counsel for Defendants the National  
Football League and NFL Properties, LLC*

CLYDE & CO US LLP



By \_\_\_\_\_  
Daren McNally

The Chrysler Building  
405 Lexington Avenue  
New York, New York 10174  
(212) 972-8222

*Counsel for Defendants ACE American Insurance Company, Century Indemnity Company (as successor in interest to Insurance Company of North America, Indemnity Insurance Company of North America, and California Union Insurance Company), Federal Insurance Company, Great Northern Insurance Company, Illinois Union Insurance Company, Pacific Indemnity Company, Vigilant Insurance Company, and Westchester Fire Insurance Company*

WINDELS MARX LANE &  
MITTENDORF, LLP

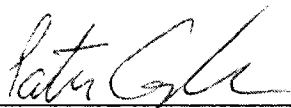
By

  
Stefano V. Calogero

One Giralda Farms, Suite 100  
Madison, New Jersey 07940  
(973) 966-3200

*Counsel for Defendant Allstate Insurance  
Company*

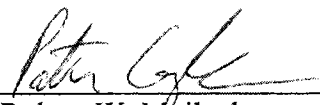
COUGHLIN-DUFFY LLP

By   
Robert W. Muilenburg  
Patrick K. Coughlin

Wall Street Plaza  
88 Pine Street, 28th Floor  
New York, New York 10005  
(212) 483-0105

*Counsel for Defendant American Guarantee  
& Liability Insurance Company*

COUGHLIN DUFFY LLP

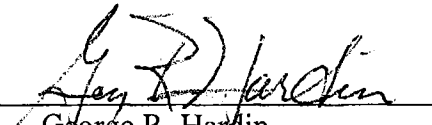
By   
Robert W. Muilenburg  
Patrick K. Coughlin

Wall Street Plaza  
88 Pine Street, 28th Floor  
New York, New York 10005  
(212) 483-0105

*Counsel for Defendant Arrowood Indemnity  
Company*



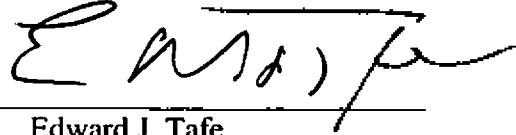
HARDIN, KUNDLA, MCKEON &  
POLETTO, P.A.

By   
George R. Hardin

110 William Street, 24th Floor  
New York, New York 10038  
(212) 571-0111

*Counsel for Defendants Bedivere Insurance  
Company, formerly known as OneBeacon  
Insurance Company*

CNA COVERAGE LITIGATION GROUP

By   
Edward J. Tafe

555 12<sup>th</sup> Street, Suite 600  
Oakland, California 94607  
(510) 645-2300

*Counsel for Defendants Continental  
Casualty Company and The Continental  
Insurance Company*

PUTNEY, TWOMBLY, HALL & HIRSON  
LLP

By   
Thomas A. Martin

521 Fifth Avenue  
New York, New York 10175  
(212) 682-0020

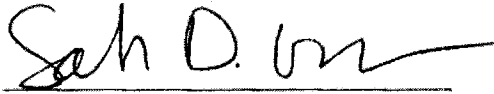
HERMES, NETBURN, O'CONNOR &  
SPEARING, P.C.

Kevin O'Connor\*  
265 Franklin Street, Seventh Floor  
Boston, Massachusetts 02110  
(202) 457-1600

\* Admitted *Pro Hac Vice*

*Counsel for Plaintiffs/Defendants Discover  
Property & Casualty Insurance Company,  
St. Paul Protective Insurance Company,  
Travelers Casualty & Surety Company,  
Travelers Indemnity Company, Travelers  
Property Casualty Company of America*

STEPTOE & JOHNSON LLP

By   
Sarah D. Gordon

1330 Connecticut Ave., NW  
Washington, DC 20036  
(202) 429-3000

*Counsel for Defendants Hartford Accident  
& Indemnity Company and New England  
Reinsurance Corporation*

DILWORTH PAXSON LLP

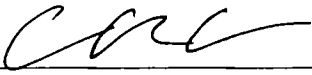
By 

William E. McGrath, Jr.

2 Research Way  
Princeton, New Jersey 08540  
(609) 987-6679

*Counsel for Defendant Munich Reinsurance  
America, Inc.*

KENNEDYS CMK LLP

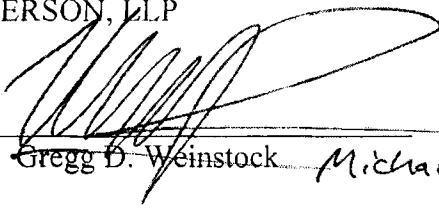
By   
Christopher R. Carroll

120 Mountain View Boulevard  
Basking Ridge, New Jersey 07920  
(908) 848-6300

*Counsel for Defendants the TIG Insurance  
Company, U.S. Fire Insurance Company,  
and The North River Insurance Company*

VIGORITO, BARKER, PORTER &  
PATTERSON, LLP

By

  
Gregg D. Weinstock

Michael Passman  
MHP

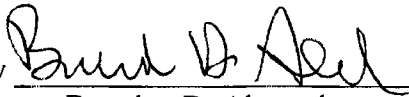
300 Garden City Plaza, Suite 308  
Garden City, NY 11530  
(516) 282-3355

BATESCAREY LLP

Adam H. Fleischer  
Michael H. Passman  
191 N. Wacker, Suite 2400  
Chicago, IL 60606  
(312) 762-3100

*Counsel for Defendant Westport Insurance  
Company*

TROUTMAN SANDERS LLP

By   
Brandon D. Almond

401 9<sup>th</sup> St. NW, Suite 1000  
Washington, DC 20004  
(202) 274-2864

*Counsel for Defendants XL Insurance  
America, Inc. and XL Select Insurance  
Company*